

William Dobson, Cleric Appellant.
Gilbert Hearne, Gent. Respondent.

The Respondent's Case.

THE Appellant complains that his Bill in Chancery is dismissed touching the Office of Register of the Consistory Court of the Diocese of Hereford.
The Appellant makes Title to the Office by Two several Grants.

First Grant to the Appellant, 1 July, 1689.

The First Grant was made by Bishop Crofts (since deceased) to the Appellant, and his Brother in Law Griffith Reynolds since deceased.

As to this Grant the Respondent insists,

First, That this Grant was *Forfeited and became Void*; for that neither the Appellant nor Reynolds received the Sacrament, and took the Oaths, and subscribed the Declaration required by the Statute of the First of William and Mary.

Note, The Appellant admits that Mr. Reynolds did not comply with that Act, but insists that he himself did, which he never yet could prove or make out, and in truth he was but *A bare Trustee for Reynolds*, And by his Appeal admits that Reynolds was to receive the whole Profits for his Life.

Secondly, This Grant howsoever became Void by the Death of Bishop Crofts, because it was not duly confirmed by the Dean and Chapter, Their Seal being put to it in the Presence only of the Dean and One of the Canons, Another of the Canons (Mr. Watts) who was there before this matter was proposed, being by Contrivance called out of the Chapter-house because they knew he would oppose it.

The whole Number of the Canons were Six.

The Second Grant to the Appellant and Respondent, 18 Sept. 1693.

The Appellant now by his Appeal likewise Claims under this Second Grant made by Bishop Ironside.

But as to this Grant the Respondent insists.

First, That the Appellant has forfeited the Benefit of this Grant, For that he never took the Oaths, nor made the Subscription, according to the said Statute of the 1st of William and Mary, Nor does so much as pretend that he did.

Secondly, The Appellant admits in his Appeal (as the truth is) that this Grant was *Never Confirmed* by the Dean and Chapter, and therefore it became Void by the Death of Bishop Ironside.

Thirdly, The Appellant all along pretended that this last Grant was obtained without his privity, by an Agreement between Reynolds only and the Respondent, which was made between and subscribed by them at the instance of Serjeant Geeres since deceased, and therefore the Appellant refused to be bound by it.

The Respondent's Title, 25 Sep. 1694.

The Appellant *Refusing and not Qualifying himself to act* under the said Grant of 18 Sept. 1693. The Respondent, the said Gilbert Hearne, surrendered to Bishop Ironside, And the said Bishop thereupon made a new Grant to the said Respondent alone of the said New Office, which was duly confirmed by the Dean and Chapter.

Mr. Hords, who is a Joint-Plaintiff with the Appellant in Chancery, taking upon him notwithstanding to detain the Books, and get what Profits he could of the Office, under the pretence of acting by Deputation from Reynolds and the Appellant.

First Tryal in Lent Assizes, 1694.

The Respondent brought an Action of the Case against Hords for Fees of the Office, and upon a long Tryal at Hereford Assizes had a Verdict against him, And afterwards upon Motion the King's Bench Court refused him *A new Tryal*.

The Second Tryal, 14 March, 1695.

Afterwards the Respondent brought his Writ of Assize at Hereford Assizes against the Appellant Dobson, and also against the said Reynolds, which was tryed before both the Judges of Assize; And after long Evidence on both Sides, the Recognitors of Assize gave a Verdict for the Respondent Hearne, and Assessed him 300 l. Damages; And thereupon he had Judgement, And upon a writ of Seisin to the Sheriff was put into Possession, and has ever since enjoyed and executed the said Office.

Note, At both these Tryals the Respondents Council admitted the Grants under which the Appellant claims, and put the Appellant Dobson to prove that he had qualified himself according to the Statute, and he examined several witnesses to that purpose, but could not prove it.

Bill filed Hil. Term. 1694.

The Appellant, together with his Deputy Mr. Hords, brought a Bill in Chancery against the said Respondent, and also against Serjeant Geeres, and Mr. Reynolds, complaining of the Agreement before mentioned, and that he was not privy to it, and that without his Consent Serjeant Geeres had cancelled his First Grant, and delivered it up, and prayed that both the same Grants wherein he was named might be delivered up to him, and that he might have an Accompt of the Profits, and be quietted in the Possession of the Office.

The same Term.

The Respondent Hearne answered that Bill, and denied all the Equity of it; But notwithstanding the Appellants specious Complaint against Serjeant Geeres for cancelling his Grant (who was well able to make him satisfaction) he never proceeded to get an Answer from him nor afterwards from his Executors.

1 June 1703. Appellant's Bill dismissed.

The Appellant never proceeded further upon this Bill for Four years, and then examined Hords and Serjeant Geeres as witnesses in Town, and then rested till Decemb. 1702. and then took out a Commission to examine more Witnesses, and brought on his Cause to a Hearing before the Lord Keeper, who was pleased to dismiss the Bill.

Wherefore after Two solemn Tryals at Law, where the Appellant made his defence, and attempted to prove the same thing he now insists upon, (*viz.*) That he had qualified himself for that Office, but fail'd in the Proofs of it, under which Tryals he hath acquiesced so many Years,

The Respondent humbly hopes the said Appeal shall be dismissed with Costs.

W. Banister.